

United States Bankruptcy Court Western District of Virginia

FREQUENTLY ASKED QUESTIONS

As a convenience to user, questions have been grouped as follows:

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Questions about Bankruptcy in general

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● What is Adobe Acrobat?
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● Can any member of the public use CM/ECF to file documents with the Court?

● Can the general public view CM/ECF cases and the documents in those cases?
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● What computer hardware and software will attorneys need to participate in the system?

Question: *Do I need an attorney to file bankruptcy?*

Answer:

It is possible to file a bankruptcy case 'pro se,' that is, without the assistance of an attorney. However, hiring a competent attorney is recommended. This is because there are many types of debts that are not dischargeable in a bankruptcy.

For information about referral programs, contact your local bar association or the Virginia Bar Association at (804) 775-0500.

Question: *What is the court fee for filing a bankruptcy?*

Answer:

The filing fee for a Chapter 7 is \$200.00.

The filing fee for a Chapter 11 is \$830.00.

The filing fee for a Chapter 13 is \$185.00.

Question: *What is the difference between chapters?*

Answer:

Chapter 7: Often called the 'liquidation chapter,' Chapter 7 is used by individuals, partnerships, or corporations who have no hope for repairing their financial situation. In Chapter 7, the debtor's estate is liquidated under the rules of the Bankruptcy Code. Liquidation is the process through which the debtor's non-exempt property is sold for cash by a trustee and the cash is distributed to creditors.

Chapter 11: Often called the 'reorganization chapter,' Chapter 11 allows corporations, partnerships, and individuals to reorganize, without having to liquidate all assets. In filing a Chapter 11, the debtor presents a plan to creditors which, if accepted by the creditors and approved by the Court, will allow the debtor to reorganize personal, financial or business affairs and again become a financially productive individual or business.

Chapter 13: An individual with regular income who is overcome by debts, but believes such debt can be repaid within a reasonable period of time, may file under Chapter 13 of the Bankruptcy Code. Chapter 13 permits the debtor to file a plan in which the debtor agrees to pay a certain percentage of future income to the Bankruptcy Court for payment to creditors. If the Court approves the plan, the debtor will be under the Court's protection while repaying such debts.

Question: *What is the Automatic Stay?*

Answer:

The filing of a petition under Chapter 7 'automatically stays' (stops) most actions against the debtor or the debtor's property.

Question: *What is a 341(a) meeting?*

Answer:

Debtors first duty to appear and testify under oath and to be questioned by creditors occurs at the 341(a) meeting. This meeting is presided over by the trustee assigned to the case and is held approximately 40 days after the new petition is filed. The debtor is questioned under oath by the trustee and creditors regarding the substance of the debtor's Schedules and Statements, as filed with the court.

Question: *Who do I notify about a possible fraudulent filing?*

Answer:

Contact the Office of the United States Trustee in Roanoke, Virginia, (540)857-2806 or the Trustee assigned to that particular case.

Once a bankruptcy petition is filed, all information submitted regarding the debtor or entity becomes a matter of public record, no matter what the outcome of the case. This information, which is regularly checked by credit companies, may affect the debtor's or entity's credit rating.

Question: *Where can I obtain petition forms?*

Answer:

If hiring an attorney is not possible, debtors may purchase bankruptcy petition forms from an office supply store for a cost of approximately \$20.00.

Also, petition forms may be downloaded from our web site.

Question: *Where do I file?*

Answer:

The Court has divisional offices located in Roanoke, Lynchburg, and Harrisonburg. Each office serves designated counties and cities in the Western District.

A debtor must have been domiciled or had a residence, principal place of business, or principal assets in the District they are filing in for 180 days immediately preceding the date of the petition or for a longer part of such 180 days than in any other District.

See link below for a breakdown of cities/towns, counties and the office for each.

Question: *How many copies do I need to file at the Court?*

Answer:

Chapter 7 - Original + 2 copies (petition, all schedules and statements, & attachments).

Chapter 11 - Original + 5 copies (petition, all schedules and statements, & attachments).

Chapter 13 - Original + 2 copies (petition, all schedules and statements, & attachments).

For all chapters: the matrix must be filed on a 3.5" floppy diskette. See specific instructions in our local rules (LR 1072-1).

Question: *How do I file a claim with the court?*

Answer:

If you have been listed as a creditor in a bankruptcy case, you will not receive a claim form unless the case is believed to have assets. The case trustee will make this determination after a complete examination of the debtors schedules and statements filed in the case. If you have not received a claim form and the case is an asset case, you may pick one up from any Bankruptcy Clerk's Office location or you may download a copy from this site. [The form requires Adobe Acrobat software for viewing/printing. A link is provided to Adobe where you may download this FREE software.] Remember to include all pertinent information with copies of invoice(s) or other written evidence supporting your claim. An original and one copy of the claim are required. If you wish to have a confirmed copy returned to you, please enclose an extra copy and self-addressed stamped envelope.

Requests for information regarding when a claim will be paid should be directed to the trustee assigned to the case whose name and telephone number can be found on the §341(a) meeting notice. Do not send original backup documentation. Instead attach copies to the original proof of claim form.

Question: *How do I get copies of documents filed in a case?*

Answer:

You may mail a written request, along with a \$20.00 per document search fee, a \$7.00 certification fee per document, and a photocopy fee of \$.50 cents per page in the form of either a bank cashier's check or U.S. Postal money order made payable to: United States Bankruptcy Court. Please include the case name, case number, filing date, and the title of the specific documents which you wish to have certified. In addition, please include your name, address and daytime telephone number. Mail your request to the office in which the case was filed.

If you wish to visit the court and choose the documents you want copies of from the file, there is no \$20.00 search fee.

Question: *How can an attorney be admitted to practice in the Bankruptcy Court?*

Answer:

Qualifications for Admission to Practice: An attorney shall be a member in good standing of the Bar of the State of Virginia and be administered by the Court the oath of admission, upon the filing of an acceptable application to practice before this Court. Further instructions are available in our Local Rules. (LR 2090-1)

Question: *Where do I get a copy of the Local Rules?*

Answer:

On the Court web site under "Local Rules."

Question: *Where do I get a copy of the Federal Rules of Bankruptcy Procedure?*

Answer:

A copy of the Federal Rules of Bankruptcy Procedure (Bankruptcy Rules) are available for review in any Clerk's Office location and legal libraries. Bankruptcy Rules are not available for purchase from the Court.

Question: *What is the case management/electronic case files project?*

Answer:

CM/ECF is a joint project of the AO and the federal courts to replace the existing case management systems in the federal courts, e.g., ICMS Civil/Criminal, the Appellate Information Management System (AIMS), BANCAP, NIBS, etc., with a new case management system based on current technology, new software, and increased functionality requested by the courts. In addition to providing the courts with updated tools for managing their cases, this new system will enable the courts to maintain electronic case files and offer electronic filing over the Internet.

Question: *What are the benefits and features of using CM/ECF for courts, attorneys and the public?*

Answer:

There are a number of significant benefits and features for courts, attorneys and the public:

Full case information, including the docket and the filed documents, are readily available to judges, chambers staff, and clerk's office personnel simultaneously without having to retrieve case records from the file room. These court users can also access this information at any time from locations other than the courthouse, via the Internet.

At the court's option, registered attorneys can file and retrieve court documents 24 hours per day, 7 days per week.

Attorneys filing over the Internet automatically create docket entries.

Attorneys, parties and the general public are able to view case records using the Internet. This includes the ability to view the full text of all filed documents (subject to any limitations the court might impose).

Attorneys can receive notices electronically in ECF cases; this eliminates the costs to both the court and attorneys of handling and mailing paper notices. It also greatly speeds delivery and allows easier tracking of case activity.

Maintaining files in electronic form reduces physical storage space needs.

Since CM/ECF uses Internet standard software, the out of pocket cost of participation for attorneys is typically very low.

Question: *Will attorneys be able to access the CM/ECF system after the court's regular business hours to file cases and review documents/docket sheets?*

Answer:

The system is available 24 hours a day, 7 days a week. Infrequently, the system will not be available so that Systems personnel may have access for maintenance. These times will be pre-announced on this web site.

Question: *What is Adobe Acrobat?*

Answer:

Adobe Acrobat is a commercial software product from Adobe that allows you to save documents in PDF (portable document format). All documents filed in CM/ECF must be in PDF format.

Question: *Can any member of the public use CM/ECF to file documents with the court?*

Answer:

No. Access to the filing portion of CM/ECF is available to authorized users only. Authorization and training is provided by the practicing CM/ECF court.

Question: *Can the general public view CM/ECF cases and the documents in those cases?*

Answer:

Yes, the public can access case data in CM/ECF unless it has been sealed by the court. The public access component of CM/ECF will require a user to enter a PACER login and password. Because the PACER login and CM/ECF filing login will be different, a user will need both. Established PACER users will automatically have access to these sites; a new account does not need to be created. For those currently not registered with PACER, a PACER account may be obtained below.

Question: *What hardware and software will attorneys need to participate in CM/ECF?*

Answer:

Attorneys will need the following hardware and software to electronically file, view, and retrieve documents in the electronic filing.